

SECRET

4051 Bill  
84-0663

OGC 84-1532  
13 February 1984

MEMORANDUM FOR:

LL/ICS

25X1

FROM:

Assistant General Counsel

25X1

SUBJECT:

Proposed Language to Clarify NIESO's Legal  
Status and Authorities

1. Recently at a morning staff meeting of the Director, Intelligence Community Staff, we discussed the possibility of proposing language for inclusion in the classified annex for the FY 85 Intelligence Authorization Act to clarify NIESO's legal authorities. Attached (Tab A) is language prepared in this office. Also attached (Tab B) is a background memorandum providing our rationale.

2. As we have discussed, at the request of [redacted] I am forwarding this material to you for appropriate action. Please let me know if you need any further information or assistance.

25X1

Attachments

cc: DD/ICS  
D/OLL ✓  
D/NIESO

25X1

SECRET

25X1



SECRET

NIESP activities and personnel are subject to the National Security Act of 1947, as amended, the Central Intelligence Agency Act of 1949, as amended, and other statutes, executive orders, and directives applicable to CIA in the same manner as activities and personnel of the CIAP.

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**Page Denied**

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8 February 1984  
OLL 84-0468

MEMORANDUM FOR: General Counsel  
Director, Intelligence Community Staff  
Chairman, Security Committee

25X1 FROM:   
Chief, Legislation Division  
Office of Legislative Liaison

SUBJECT: Draft Fiscal Year 1985 Intelligence  
Authorization Bill

1. Attached is a copy of the draft Fiscal Year 1985 Intelligence Authorization Bill, which was sent to the Office of Management and Budget (OMB) on 3 February 1984.

2. You will note that the two proposals addressing unauthorized disclosures of classified information contained in the earlier draft submitted for your review have been omitted in the bill which was transmitted to OMB. Given the current atmosphere on the Hill with respect to NSDD 84, the fact that neither of these proposals has virtually any chance of being ultimately enacted into law in this session of Congress, and that any possible leak of these proposals could result in considerable unfavorable media exposure and criticism of the Agency as the sponsor of these legislative initiatives, a decision was made to omit these two proposals from the attached draft Authorization Bill.

3. I welcome any further comments you may have with respect to the remainder of the attached draft Authorization Bill.

STAT

Attachment

DISTRIBUTION:

Original - Addressee  
1 - OLL Chrono  
✓ 1 - LEG File: FY 85 Inte. Auth.  
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1 - D/OLL  
1 - ID/OLL

SWH:csH (8 February 1984)

Central Intelligence Agency



Washington, D.C. 20505

OLL 84-0469  
8 February 1984

Jon Anderson  
General Counsel  
National Security Agency  
Ft. George G. Meade, MD 20755

Dear Jon:

Enclosed is an advance copy of the draft Fiscal Year 1985 Intelligence Authorization Bill, which was sent to the Office of Management and Budget (OMB) last Friday, 3 Friday 1984. I thought you would like to have an opportunity to review this Bill before it is provided to you through the formal OMB clearance process.

As you know, we decided to omit from the Bill your proposal providing civil remedies for the unauthorized disclosure of signals intelligence information. Given the current atmosphere on the Hill with regard to NSDD 84, the fact that this proposal has virtually no chance of ultimately being enacted into law in this session of Congress, and that any possible leak of this proposal could result in considerable unfavorable media exposure and criticism of the Intelligence Community as the sponsor of this legislative initiative, a decision was made to omit this proposal from the enclosed draft Authorization Bill.

I welcome any additional comments you may have with respect to the remainder of the enclosed Bill.

Sincerely,

  
Chief, Legislation Division  
Office of Legislative Liaison

Enclosure

DISTRIBUTION:

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SWH:csh (8 February 1984)

Central Intelligence Agency



Washington, D.C. 20505

OLL 84-0535  
7 February 1984


Mr. Ronald K. Peterson  
Chief  
Resources-Defense-International Branch  
Office of Management and Budget  
Washington, D.C. 20503

Dear Ron:

Enclosed is a copy of the draft Fiscal Year 1985 Intelligence Authorization Bill which was delivered on 3 February 1984 to the Office of Management and Budget under a letter from the Director of Central Intelligence to Director Stockman.

I will be happy to discuss any of the provisions contained in this draft Bill with you at your convenience.

Sincerely,

  
Chief, Legislation Division  
Office of Legislative Liaison

Enclosure

DISTRIBUTION:

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SWH:csh (7 February 1984)



SIAB

Central Intelligence Agency



Washington, D.C. 20505

OLL 84-0534  
7 February 1984

Ms. Tracey Cole Lawler  
Legislative Analyst  
Office of Management and Budget  
Washington, D.C. 20503

Dear Tracey:

Enclosed is a copy of the draft Fiscal Year 1985 Intelligence Authorization Bill which was delivered on 3 February 1984 to the Office of Management and Budget under a letter from the Director of Central Intelligence to Director Stockman.

I will be happy to discuss any of the provisions contained in this draft Bill with you at your convenience.

Sincerely,



Chief, Legislation Division  
Office of Legislative Liaison

Enclosures

DISTRIBUTION:

Original - Addressee  
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1 - DD/OLL (w/o attach)

SWH:csH (7 February 1984)

STAT

OLL 84-0380  
1 February 1984

MEMORANDUM FOR: Director of Central Intelligence  
Deputy Director of Central Intelligence

FROM: Clair E. George  
Director, Office of Legislative Liaison

SUBJECT: Draft Fiscal Year 1985 Intelligence  
Authorization Bill

1. Attached at Tab A for your signature is a letter to Office of Management and Budget (OMB) Director David A. Stockman transmitting the draft Intelligence Authorization Bill for Fiscal Year 1985. Attached at Tab B is a copy of the draft Bill. Comments were received from a number of Agency components concerning an earlier draft of this bill and these comments have been incorporated in the revised version attached at Tab B, which will be transmitted to OMB for review and approval.

2. The vast majority of the comments received from Agency components concerned two proposals which addressed the unauthorized disclosure of classified information. One of these proposals was designed to facilitate the criminal prosecution of Government employees and officers who provide classified information to individuals who are not authorized to receive such information. The second proposal was a National Security Agency (NSA) initiative which provided civil remedies for the unauthorized disclosure of signal intelligence information. Given the current atmosphere on the Hill with respect to NSDD 84, the fact that neither of these proposals has virtually any chance of being ultimately enacted into law in this session of Congress, and that any possible leak of these proposals could result in considerable unfavorable media exposure and criticism of the Agency as the sponsor of these legislative initiatives, we have omitted these two proposals from the attached draft Authorization Bill. The Office of General Counsel (OGC) concurs in this decision.

3. With respect to the above criminal provision addressing unauthorized disclosures, you will recall that we obtained OMB clearance for this same proposal during last year's authorization process. Because OMB approval for this initiative was obtained last year, this provision can easily be reinserted in the Authorization Bill or separately pursued as a

free-standing bill apart from the authorization process if there is a change in Congressional mood, with respect to NSDD 84 and the leaks area. As to the above NSA proposal, NSA is still free to seek OMB clearance for this proposal as a free-standing initiative rather than as part of the Authorization Bill.

4. With respect to the attached draft Bill, Titles I through III and Title VII of this Bill are, for the most part, routine in nature and similar to comparable provisions contained in the Fiscal Year 1984 Authorization Act. Title IV, which provides for the modification of certain naturalization requirements, is an initiative which was included in last year's Authorization Bill and approved by OMB. Title V provides certain needed technical amendments to the Classified Information Procedures Act. Title VI contains two legislative initiatives which were included at various stages in last year's Authorization Bill. These proposals address executive level schedule increases for the Director of Central Intelligence and Deputy Director of Central Intelligence and the avoidance of penalties for mandatory retirement prior to age 62. Title VI also contains three new proposals drafted by OGC which make clear that Agency personnel, security and other administrative actions are not subject to laws having general Government-wide application such as the Administrative Procedures Act; which specifically authorize Agency employees to testify in alias when their employment relationship with the Government is classified and the fact of such employment is not material to the litigation at issue; and which authorize the Agency to exercise certain security-related powers which may be delegated by the General Services Administration to the Agency to protect Agency facilities.

5. As you know, the Agency at this stage in the authorization process is simply attempting to obtain Administration clearance for the attached proposals. By obtaining such clearance, we are not committed or otherwise obligated to pursue any of these initiatives, or to incorporate these proposals in the final draft Authorization Bill which is submitted to Congress.



Clair E. George

Attachments



Central Intelligence Agency



Washington, D.C. 20505

2 February 1984

The Honorable David A. Stockman  
Director  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. Stockman:

In accordance with Office of Management and Budget Circular No. A-19 (revised), I am submitting proposed legislation for your advice as to whether it is in accord with the President's program. Enclosed are ten copies of the proposed "Intelligence Authorization Act for Fiscal Year 1985," with accompanying draft letters of transmittal to the President of the Senate and to the Speaker of the House of Representatives.

The Fiscal Year 1985 Intelligence Authorization Act was identified as proposal number 98/2-2 in the proposed Central Intelligence Agency and Intelligence Community Legislative Program for the second session of the ninety-eighth Congress which was recently forwarded to your Office with the consolidated National Foreign Intelligence Program budget. The basic provisions of the proposed Fiscal Year 1985 Intelligence Authorization Act are similar in substance to those contained in the Fiscal Year 1984 Act. You will recall that Title IV of this proposed bill entitled "Modification of Certain Naturalization Requirements," was approved by the Office of Management and Budget last year for inclusion in the Fiscal Year 1984 Authorization Bill to be submitted to Congress. Additional provisions are explained in a detailed section-by-section analysis.

I would be most appreciative of your assistance in securing prompt clearance of this proposed legislation.

Sincerely,

A handwritten signature in dark ink, appearing to read "William J. Casey".

William J. Casey  
Director of Central Intelligence

Enclosures

Approved For Release 2008/08/27 : CIA-RDP86B00338R000200170009-5

These letters (to O'Neill and Bush) were inadvertently signed by Mr. Casey, they were just to be attachments to Mr. Stockman's letter, not to be signed and sent. Therefore, new unsigned copies have been made which are to be inserted where the signed letters are in the entire package (OLL 84-0380 dated 1 Feb 84, and ER 84-574/1-2 dated 1 Feb 84).

Approved For Release 2008/08/27 : CIA-RDP86B00338R000200170009-5

Central Intelligence Agency



Washington, D.C. 20505

The Honorable George Bush  
President of the Senate  
Washington, D.C. 20510

Dear Mr. President:

This letter transmits for the consideration of the Congress a proposed "Intelligence Authorization Act for Fiscal Year 1985".

To continue the progress which the Executive and Legislative Branches have taken together toward revitalization of our nation's Intelligence Community, sufficient resources in Fiscal Year 1985 must be provided to ensure availability of the intelligence capabilities needed to meet the challenges of both today and the future. I am confident that the Congress will provide the sources needed to continue the progress which we have sought together.

The proposed Intelligence Authorization Act is accompanied by a detailed section-by-section explanation. Timely consideration of the "Intelligence Authorization Act for Fiscal year 1985" would be most welcome. The Office of Management and Budget has advised that enactment of this proposed legislation would be in accordance with the President's program.

Sincerely,

William J. Casey  
Director of Central Intelligence

Central Intelligence Agency



Washington, D.C. 20505

The Honorable Thomas P. O'Neill, Jr.  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

This letter transmits for the consideration of the Congress a proposed "Intelligence Authorization Act for Fiscal Year 1985."

To continue the progress which the Executive and Legislative Branches have taken together toward revitalization of our nation's Intelligence Community, sufficient resources in Fiscal Year 1985 must be provided to ensure the availability of the intelligence capabilities needed to meet the challenges of both today and the future. I am confident that the Congress will provide the resources needed to continue the progress which we have sought together.

The proposed Intelligence Authorization Act is accompanied by a detailed section-by-section explanation. Timely consideration of the "Intelligence Authorization Act for Fiscal Year 1985" would be most welcome. The Office of Management and Budget has advised that enactment of this proposed legislation would be in accordance with the President's program.

Sincerely,

William J. Casey  
Director of Central Intelligence

Enclosure



Central Intelligence Agency



Washington, D.C. 20505

2 February 1984

The Honorable Thomas P. O'Neill, Jr.  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

This letter transmits for the consideration of the Congress a proposed "Intelligence Authorization Act for Fiscal Year 1985."

To continue the progress which the Executive and Legislative Branches have taken together toward revitalization of our nation's Intelligence Community, sufficient resources in Fiscal Year 1985 must be provided to ensure the availability of the intelligence capabilities needed to meet the challenges of both today and the future. I am confident that the Congress will provide the resources needed to continue the progress which we have sought together.

The proposed Intelligence Authorization Act is accompanied by a detailed section-by-section explanation. Timely consideration of the "Intelligence Authorization Act for Fiscal Year 1985" would be most welcome. The Office of Management and Budget has advised that enactment of this proposed legislation would be in accordance with the President's program.

Sincerely,

A handwritten signature in dark ink, appearing to read "William J. Casey".

William J. Casey  
Director of Central Intelligence

Enclosure

Central Intelligence Agency



Washington, D.C. 20505

2 February 1984

The Honorable George Bush  
President of the Senate  
Washington, D.C. 20510

Dear Mr. President:

This letter transmits for the consideration of the Congress a proposed "Intelligence Authorization Act for Fiscal Year 1985".

To continue the progress which the Executive and Legislative Branches have taken together toward revitalization of our nation's Intelligence Community, sufficient resources in Fiscal Year 1985 must be provided to ensure availability of the intelligence capabilities needed to meet the challenges of both today and the future. I am confident that the Congress will provide the sources needed to continue the progress which we have sought together.

The proposed Intelligence Authorization Act is accompanied by a detailed section-by-section explanation. Timely consideration of the "Intelligence Authorization Act for Fiscal year 1985" would be most welcome. The Office of Management and Budget has advised that enactment of this proposed legislation would be in accordance with the President's program.

Sincerely,

A handwritten signature in dark ink, appearing to read "William J. Casey".

William J. Casey  
Director of Central Intelligence

B

## A BILL

To authorize appropriations for fiscal year 1985 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1985".

### TITLE I - INTELLIGENCE ACTIVITIES

#### Authorization of Appropriations

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1985 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency;
- (2) The Intelligence Community Staff;
- (3) The Department of Defense;
- (4) The Defense Intelligence Agency;
- (5) The National Security Agency;
- (6) The Department of the Army, the Department of the Navy, and the Department of the Air Force;
- (7) The Department of State;
- (8) The Department of the Treasury;
- (9) The Department of Energy; and
- (10) The Federal Bureau of Investigation.

#### Classified Schedule of Authorizations

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1985, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany [ ] of the Ninety-Eighth Congress. That Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule within the Executive Branch.

Congressional Notification of Expenditures  
in Excess of Program Authorizations

SEC. 103. During fiscal year 1985, funds may not be made available for any intelligence or intelligence-related activity unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of Congress of the intent to make such funds available for such activity, except that, in no case may reprogramming or transfer authority be used by the Director of Central Intelligence or the Secretary of Defense unless for higher priority intelligence or intelligence-related activities, based on unforeseen requirements, than those for which funds were originally authorized, and in no case where the intelligence or intelligence-related activity for which funds were requested has been denied by Congress.

Personnel Ceiling Adjustments

SEC. 104. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for the fiscal year 1985 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

TITLE II - INTELLIGENCE COMMUNITY STAFF

Authorization of Appropriations

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1985 the sum of \$21,827,000.00.

Authorization of Personnel End-Strength

SEC. 202. The Intelligence Community Staff is authorized two hundred and thirty two (232) full-time personnel as of September 30, 1985. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1985, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1985, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

Intelligence Community Staff Administered  
in Same Manner as Central Intelligence Agency

SEC. 203. During fiscal year 1985, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-403n) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III - CENTRAL INTELLIGENCE AGENCY  
RETIREMENT AND DISABILITY SYSTEM

Authorization of Appropriations

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1985 the sum of \$99,300,000.

TITLE IV - MODIFICATION OF CERTAIN  
NATURALIZATION REQUIREMENTS

Immigration and Nationality Act Amendment

SEC. 401. Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end thereof the following new subsection:

"(g) Whenever the Director of Central Intelligence determines that a petitioner otherwise eligible for naturalization has made a significant contribution to the national security or to the national intelligence mission, and the Attorney General and the Commissioner concur, the petitioner may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of Section 313 of this Act, and no residence within the jurisdiction of the court shall be required."

TITLE V - AMENDMENTS TO THE CLASSIFIED  
INFORMATION PROCEDURES ACT

SEC. 501. (a) Section 3 (relating to protective orders) of the Classified Information Procedures Act (Pub.L. 96-456, 18 U.S.C. App.) is amended by inserting "known by or in the possession of any defendant or" after "classified information."

(b) Section 5(a) (relating to notice of defendant's intention to disclose classified information) is amended to read as follows:

"NOTICE BY DEFENDANT -- If a defendant reasonably expects to disclose or to cause the disclosure of classified information in any manner after an indictment or in connection with any trial or pretrial proceeding involving the criminal prosecution of such defendant, the defendant shall, within the time specified by the court or, where no time is specified, within thirty days prior to trial, notify the attorney for the United States and the court in writing. The defendant shall file under seal with the court and make available to the attorney for the United States a brief description of the classified information. Whenever a defendant learns of additional classified information he reasonably expects to disclose at any such proceeding, he shall notify the attorney for the

United States and the court in writing as soon as possible thereafter and shall file under seal with the court and make available to the attorney for the United States a brief description of the classified information. No defendant shall disclose in any form or manner, including publication, any information known or believed to be classified after an indictment or in connection with a trial or pretrial proceeding until notice has been given under this subsection and until the United States has been afforded a reasonable opportunity to seek a determination pursuant to the procedure set forth in section 6 of this Act, and until the time for the United States to appeal such determination under section 7 has expired or any appeal under section 7 by the United States is decided."

TITLE VI - ADMINISTRATIVE PROVISIONS RELATED  
TO INTELLIGENCE AGENCIES

Compensation of Director and Deputy  
Director of Central Intelligence

SEC. 601. (a) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"( ) Director of Central Intelligence."

(b) Section 5313 of title 5, United States Code, is amended by inserting "Deputy" before "Director of Central Intelligence."

(c) Section 5314 of title 5, United States Code, is amended by striking out "Deputy Director of Central Intelligence."

Avoidance of Penalty for Mandatory Retirement  
Prior to Age 62

SEC. 602. Section 301 of the Omnibus Budget Reconciliation Act of 1982, Public Law 97-253, is amended as follows:

(1) Adding after subparagraph (A) of paragraph (a)(2) the following new subparagraph: "(B) the individual did not retire under the mandatory retirement provisions of section 235 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note);



(2) Redesignating subparagraph (B) as subparagraph (C) and subparagraph (C) as subparagraph (D); and

(3) Inserting in paragraph (c)(3) the word "Retirement" following the word "Agency".

#### Protection of Cover for CIA Personnel

SEC. 603. Section 5 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f) is amended by striking the last "and" in subsection (e), by striking the period at the end of subsection (f) and substituting in lieu thereof ";" and by adding at the end thereof the following new subsection:

"(g) Take affirmative measures to preserve, notwithstanding any other provision of law, the confidentiality of the identity of any current or former Agency officer or employee whose intelligence relationship with the Government is classified pursuant to Executive Order in the interests of national security. In accordance with this subsection, the Agency is specifically authorized to direct any of its current or former officers and employees to testify in court proceedings under a pseudonym which has been officially authorized by the Agency to be used for this purpose and to otherwise use in such proceedings identities or employment backgrounds devised by the Agency to protect the confidentiality of its personnel, if advance notification has been provided to the judge alone, in chambers, and the judge determines that the true name, identity, or employment background of a current or former officer or employee is not material to the particular proceedings. Any finding of materiality made by a state court shall be removed to federal district court for a determination of materiality upon motion of the United States. Any finding of materiality made by a federal district court, regardless of whether it concerns litigation which was brought in a state court or in federal district court, may be appealed by the United States on an interlocutory basis to the appropriate federal court of appeals; and"

#### CIA Performance of Security-Related Duties

SEC. 604. Section 5 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f) is amended by adding at the end of subsection (g) the following new subsection:

"(h) Accept, notwithstanding section 102(d)(3) of the National Security Act of 1947, a delegation from the Administrator of General Services of authority to protect persons and property with the powers set forth in section 318 of Title 40, United States Code, and of authority to promulgate rules and regulations for the protection of property under Agency charge and control with the powers set forth in section 318a of Title 40, United States Code."

#### Administrative Discretion of the CIA

SEC. 605. The Central Intelligence Agency Act of 1949 is amended by adding after Section 14 (50 U.S.C. 403n) the following new section:

"§403o. ADMINISTRATIVE DISCRETION OF THE CIA. For the purpose of any other law, actions taken by the Central Intelligence Agency shall be deemed to be committed to the discretion of the Central Intelligence Agency by law."

### TITLE VII - GENERAL PROVISIONS

#### Restriction on Conduct of Intelligence Activities

SEC. 701. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

#### Increases in Employee Benefits Authorized by Law

SEC. 702. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

#### Compliance with Section 607 of P.L. 93-344, the Congressional Budget and Impoundment Control Act of 1974

SEC. 703. There are authorized to be appropriated for fiscal year 1986 such sums as may be necessary for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability Fund.

**INTELLIGENCE AUTHORIZATION ACT FOR  
FISCAL YEAR 1985**

**SECTION-BY-SECTION ANALYSIS  
AND EXPLANATION**

## TITLE I

### INTELLIGENCE ACTIVITIES

Section 101 lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorizes appropriations for fiscal year 1985.

Section 102 makes clear that details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and personnel ceilings covered under this title for fiscal year 1985 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations is incorporated into the Act by this section.

Section 103 requires that no funds may be appropriated or otherwise made available through the exercise of transfer or reprogramming authority unless specifically authorized or accompanied by notification. It is understood that specifically authorized intelligence activities are those activities described in annual budget justification material as modified by the Congress. The notification requirement is not intended to apply to reprogrammings below agreed-to dollar thresholds, releases from authorized contingency funds, or to Economy Act transactions for specific activities otherwise authorized by law. Notification required under this provision is normally expected to be made at least fifteen days prior to completion of the funding transaction, but it is recognized that circumstances may occasionally require later notification.

Should questions arise as to the relationship between this section and section 105 of the National Security Act of 1947, it is expected that resolution will be guided by the principles of comity and mutual understanding set forth in the legislative history accompanying the statutory intelligence oversight provisions enacted in 1980.

Section 104 authorizes the Director of Central Intelligence in fiscal year 1985 to expand the personnel ceilings applicable to the components of the Intelligence Community under Sections 102 and 202 by an amount not to exceed 2 percent of the total of the ceilings applicable under these sections. The Director may exercise this authority only when necessary to the performance of important intelligence functions or to the maintenance of a stable personnel force, and any exercise of this authority must be reported to the two intelligence committees of the Congress.

## TITLE II

### INTELLIGENCE COMMUNITY STAFF

Section 201 authorizes appropriations in the amount of \$21,827,000 for the staffing and administration of the Intelligence Community Staff.

Section 202 provides details concerning the number and composition of Intelligence Community Staff personnel.

Subsection (a) authorizes two hundred thirty-two (232) full-time personnel for the Intelligence Community Staff for fiscal year 1985, and provides that personnel of the Intelligence Community Staff may be permanent employees of the Staff or detailed from various elements of the United States Government.

Subsection (b) requires that detailed employees be selected so as to provide appropriate representation from the various departments and agencies engaged in intelligence and intelligence-related activities.

Subsection (c) requires that personnel be detailed on a reimbursable basis except for temporary situations.

Section 203 provides that the Director of Central Intelligence shall utilize existing statutory authority to manage the activities and to pay the personnel of the Intelligence Community Staff. This language reaffirms the statutory authority of the Director of Central Intelligence and clarifies the legal status of the Intelligence Community Staff. In the case of detailed personnel, it is understood that the authority of the Director of Central Intelligence to discharge personnel extends only to discharge from service at the Intelligence Community Staff and not from federal employment or military service.

## TITLE III

### CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Section 301 authorizes fiscal year 1985 appropriations in the amount of \$99,300,000 for the Central Intelligence Agency Retirement and Disability Fund.

## TITLE IV

### MODIFICATION OF CERTAIN NATURALIZATION REQUIREMENTS

Section 401 amends section 316 of the Immigration and Nationality Act, 8 U.S.C. 1427, to authorize the waiver of three requirements for naturalization for certain persons who have made significant contributions to the national security or to the national intelligence mission. The requirements are general residency and physical presence, the requirements imposed on members of certain organizations, and the requirement that the naturalization petition be filed in the court which has jurisdiction over the petitioner's place of residence.

Congress has established a number of conditions on the granting of United States citizenship. These are set forth in Chapter 2 of Title III of the Immigration and Nationality Act, 8 U.S.C. 1421 et seq. The Congress has recognized, however, that when necessary to other governmental interests, certain of these requirements should be reduced or waived entirely. Unfortunately, there remain some requirements of the Immigration and Nationality Act which prevent complete recognition of significant contributions made to the national security or to the national intelligence mission. Section 401 seeks to remedy this situation by addressing three requirements which currently stand in the way of expeditious naturalization of individuals making such contributions. Under the amendment proposed in section 401, waivers would be authorized in recognition of outstanding contributions to the United States and of the fact that the character and quality of service to the United States by certain individuals demonstrates that there is no need for them to serve a probationary period of residence to prove their fitness for citizenship.

The waivers authorized by proposed subsection (g) of section 316 of the Immigration and Nationality Act are limited in nature. They would become operative only after initiation by the Director of Central Intelligence and the concurrence of the Attorney General and the Commissioner of Immigration and Naturalization. Waivers would be authorized only for three very specific requirements for naturalization. Individuals granted such waivers would have to comply with all other naturalization requirements.

## TITLE V

AMENDMENTS TO CLASSIFIED INFORMATION  
PROCEDURES ACT

Section 501 amends sections 3 and 5 of the Classified Information Procedures Act (CIPA), (Public Law 96-456, 18 U.S.C. App.), to more effectively ensure that classified information is protected from all possibility of disclosure after indictment in a criminal case. Section 501(a) expands the court's protective order authority contained in section 3 of CIPA to reach classified information that was obtained by or became known to the defendant outside the criminal discovery process. Section 3 currently limits the issuance of protective orders by the court to classified information "disclosed by the United States to any defendant..." This expansion of the court's protective order authority will protect from disclosure that classified information which became known to the defendant during earlier Government employment or through means other than the discovery process or judicial proceedings in the immediate case.

Section 501 (b) similarly amends Section 5 of CIPA to extend its non-disclosure provisions to out-of-court disclosures made by the defendant. Section 5 currently requires the defendant, any time he anticipates making a disclosure "in connection with any trial or pre-trial proceedings," to file notice of the anticipated disclosure so that the Government may then invoke the Act's procedures for obtaining an advance ruling on the relevance and admissibility of the information. Out-of-court disclosures not made "in connection with any trial or pretrial proceeding" can be equally damaging to the Government's case and provide a significant opportunity for the defendant to threaten the kind of "graymail" which CIPA is designed to prevent. Proposed Section 501(b) makes Section 5's notice provisions and its bar on disclosure applicable to disclosures made by the defendant "in any form or manner" and not simply to publication in the trial context. This subsection also expands the timeframe during which the notice and non-disclosure provisions of Section 5 apply to any disclosure made "after indictment". This amendment is intended to limit a defendant's ability to disclose classified information and significantly impair the Government's prosecution in the interim following the return of an indictment but before any pre-trial court proceedings can be scheduled and conducted by the court. Section 501 (b) also requires the defendant to file his notice and description of the classified information at issue under seal with the court, since frequently the "brief description" required under Section 5 is itself classified and its publication as part of

the public court record can have the same deleterious effect on the Government's case as disclosure of the underlying information.

The intent of CIPA is to prevent the needless disclosure of classified information by maintaining the status quo while the Government has an opportunity to avail itself of the Act's provisions. These protective purposes are more adequately ensured by extending CIPA's provisions to equally damaging out-of-court disclosures made by defendants, by including the time period following indictment but prior to any actual in-court proceeding as subject to these same provisions, and by requiring defendants to file all notices under Section 5 under seal.

## TITLE VI

### ADMINISTRATIVE PROVISIONS RELATED TO INTELLIGENCE AGENCIES

Section 601 adjusts the annual rates of basic pay for the positions of Director and Deputy Director of Central Intelligence. Section 5312 of title 5, United States Code, currently lists fourteen (14) positions which have an annual rate of basic pay at level 1 of the Executive Schedule. Subsection 601(a) would add the Director of Central Intelligence to the list. Section 5313 of title 5, United States Code, sets forth those positions which have an annual rate of basic pay at level 11 of the Executive Schedule. The Director of Central Intelligence is presently included in this listing. Subsection 601(b) would change the listed position of Director of Central Intelligence to Deputy Director of Central Intelligence. Given the addition of the Deputy Director of Central Intelligence to the Executive Schedule level 11 position listed in Section 5313, it becomes necessary to amend Section 5314 of title 5, United States Code, to strike the Deputy Director of Central Intelligence from the positions listed as receiving an annual rate of basic pay at level 111 of the Executive Schedule. Subsection 601(c) accomplishes this.

Section 602 amends section 301 of the Omnibus Budget Reconciliation Act of 1982 to correct an inadvertent anomaly in that Act. Section 301 of the Reconciliation Act restricts the cost-of-living increase for annuities or retired or retainer pay for early retirees under "any Government retirement system" to one-half of the cost-of-living increase due other federal retirees, for fiscal years 1983, 1984, and 1985. Early retirees are defined to be those covered by this restriction



and paragraph (3) lists the Central Intelligence Agency [Retirement] Act of 1964 for Certain Employees (50 U.S.C. 403 note), which established the Central Intelligence Agency Retirement and Disability System (CIARDS). The inclusion of CIARDS within the provisions of section 301 creates a serious inequity due to the fact that section 235(b) of the CIA Retirement Act of 1964 provides for mandatory retirement at age 60 for covered individuals whose rate of compensation is less than the rate for grade GS-18 (Senior Intelligence Service IV and below). In addition, section 235(a) of that Act gives the Director of Central Intelligence the authority to retire any participant who has served at least 25 years or who is at least 50 years of age with a minimum of 20 years of service. Therefore, under section 301 of the Reconciliation Act as it now reads, individuals retired under the mandatory retirement provisions of CIARDS prior to age 62 would be penalized in the same manner as individuals voluntarily retiring prior to the age of 62.

Section 603 provides explicit statutory authority for the Agency to protect the cover of its employees, as contemplated by the Intelligence Identities Protection Act of 1982, and for the Agency to overcome any provisions of law inconsistent with the maintenance of that cover. Also, this section specifically provides a mechanism to facilitate the testimony of undercover Agency personnel in court without requiring such personnel to disclose their true identity or employment background when their true identity and employment background are not material to the litigation. The Agency has been faced with serious problems in a number of recent cases concerning its ability to protect the cover of Agency personnel needed to testify in various litigations. While the Agency's ability to protect the cover of its personnel clearly flows from the responsibility of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 102(d)(3) of the National Security Act of 1947, as amended, the absence of an explicit statutory provision addressing this subject has hampered the Agency in its efforts to protect undercover personnel who are required to testify in court. The authority provided by this section for the Agency to protect the confidentiality of its personnel who testify in court proceedings is limited in two ways. First, the current or former Agency employee's intelligence relationship with the Government must be classified pursuant to the criteria of Executive Order 12356. Second, the court must determine that the true name, identity and employment background of the current or former employee is not material to the particular proceeding before it. This section permits the Government to make an ex parte, in camera presentation to the judge in order to assist the court in making this materiality determination.

This section also permits the Government to remove any issue concerning a finding of materiality raised in a state court to a federal district court for a final determination in this regard. In addition, any finding of materiality made by a federal district court may be appealed by the Government on an interlocutory basis to an appropriate federal court of appeals.

Section 604 authorizes the Agency to receive a delegation of authority from the Administrator of General Services to protect Agency facilities, property and personnel with the powers provided the General Services Administration (GSA) in section 318 of Title 40, United States Code. The Agency, on several occasions, has considered accepting a delegation from GSA of certain of the unique protective authorities exercised by GSA with respect to Agency facilities. The authorities which the Agency has contemplated accepting are those set forth in 40 U.S.C. Section 318, which authorizes GSA to police certain Government buildings by enforcing laws enacted for the protection of persons and property, to prevent breaches of the peace and to otherwise enforce rules and regulations promulgated by the Administrator of GSA for the protection of Government property. In considering whether to accept a delegation from GSA of the above authorities, a question has been raised concerning the Agency's ability to accept such a delegation and exercise the above authorities given the proviso contained in the National Security Act of 1947 that the Agency may exercise "no police, subpena, law-enforcement powers, or internal security functions...."

To facilitate this desired transfer of authorities from GSA to CIA, this section eliminates any doubt concerning the Agency's ability to receive and exercise with respect to CIA facilities these delegated security-related powers in light of the above prohibition contained in the 1947 Act. This section authorizes the Agency to accept a delegation of those powers set forth in section 318, the exercise of which would be limited to those essential functions needed to insure the safety and protection of Agency property and the persons thereon. This section also authorizes the Agency to promulgate rules and regulations for the protection of any property under the Agency's charge and control. The authority to promulgate rules and regulations permits the Agency to tailor to the needs of CIA those GSA regulations which are in effect for federal property under GSA custody and control.

Section 605 reaffirms the broad discretion of the Agency to take such personnel, security and other administrative actions as it deems appropriate without regard to statutes of Government-wide applicability, such as 5 U.S.C. 701, et seq., by providing that for purposes of such statutes, administrative

actions taken by the CIA are deemed to be committed to the discretion of the CIA by law. Although administrative actions taken by the Agency have historically been regarded as being committed to Agency discretion by law, and therefore exempt from statutes of Government-wide applicability, this view has been aggressively challenged in several recent cases. To eliminate any doubt which may exist with respect to the unreviewability of Agency administrative authorities, this section makes it clear that Agency personnel, security and other administrative actions are fully committed to Agency discretion by law.

## TITLE VII

### GENERAL PROVISIONS

Section 701 makes clear that, with the exception of any specific legislative authorities which may be contained in the Intelligence Authorization Act for Fiscal Year 1985, the Act is intended only to authorize appropriations and does not constitute authority for the conduct of any intelligence activity prohibited by the Constitution or laws of the United States.

Section 702 authorizes the increase of appropriations authorized by the Act for salary, pay, retirement and other benefits for federal employees as necessary for increases in such benefits authorized by law.

Section 703 authorizes such sums as may be necessary for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1986. This section also brings the authorization process into compliance with section 607 of Public Law 93-344, the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. §1110) which requires that appropriations be authorized in the calendar year prior to the year in which the fiscal year begins.

INTELLIGENCE AUTHORIZATION ACT FOR  
FISCAL YEAR 1985

CHANGES IN EXISTING LAW

NOTE: Where applicable, changes in existing law are shown as follows: existing law in which no change is proposed is shown in roman; existing law proposed to be struck is enclosed in brackets; new material is underscored.

## TITLE I

### INTELLIGENCE ACTIVITIES

Section 101: No substantive change.

Section 102: No substantive change.

Section 103: No substantive change from Section 103 of the fiscal year 1984 Act.

Section 104: No substantive change from Section 107 of the fiscal year 1984 Act.

## TITLE II

### INTELLIGENCE COMMUNITY STAFF

Section 201: No substantive change.

Section 202: No substantive change.

Section 203: No substantive change.

## TITLE III

### CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Section 301: \$99,300,000.00.

## TITLE IV

### MODIFICATION OF CERTAIN NATURALIZATION REQUIREMENTS

Section 401: Amends Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427), by adding at the end thereof a new subsection (g), as follows:

Requirements As To Residence, Good Moral Character, Attachment to the Principles of the Constitution, and Favorable Disposition to the United States.

\* \* \*

(g) Whenever the Director of Central Intelligence determines that a petitioner otherwise eligible for naturalization has made a significant contribution to the national security or to the national intelligence mission, and the Attorney General and the Commissioner concur, the petitioner may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of Section 313 of this Act, and no residence within the jurisdiction of the court shall be required.

## TITLE V

### AMENDMENTS TO THE CLASSIFIED INFORMATION PROCEDURES ACT

Section 501: Amends sections 3 and 5 of the Classified Information Procedures Act (CIPA), Public Law 96-456, 18 U.S.C. App., to enhance the protection afforded classified information by that Act as follows:

SEC. 3. Upon motion of the United States, the court shall issue an order to protect against the disclosure of any classified information known by or in the possession of any defendant or disclosed by the United States to any defendant in any criminal case in a district court of the United States.

\* \* \* \*

SEC. 5. (a) NOTICE BY DEFENDANT -- If a defendant reasonably expects to disclose or to cause the disclosure of classified information in any manner after an indictment or in connection with any trial or pretrial proceeding involving the criminal prosecution of such defendant, the defendant shall, within the time specified by the court or, where no time is specified, within thirty days prior to trial, notify the attorney for the United States and the court in writing. The defendant shall file under seal with the court and make available to the attorney for the United States a brief description of the classified information. Whenever a defendant learns of additional classified information he reasonably expects to disclose at any such proceeding, he shall notify the attorney for the United States and the court in writing as soon as possible thereafter and shall file under seal with the court and make available to the attorney for the United States a

brief description of the classified information. No defendant shall disclose in any form or manner, including publication, any information known or believed to be classified after an indictment or in connection with a trial or pretrial proceeding until notice has been given under this subsection and until the United States has been afforded a reasonable opportunity to seek a determination pursuant to the procedure set forth in section 6 of this Act, and until the time for the United States to appeal such determination under section 7 has expired or any appeal under section 7 by the United States is decided.

## TITLE VI

### ADMINISTRATIVE PROVISIONS RELATED TO INTELLIGENCE AGENCIES

Section 601: Amends title 5, United States Code, as follows:

5 U.S.C. 5312

\* \* \* \* \*

Director of Central Intelligence.

5 U.S.C. 5313

\* \* \* \* \*

Deputy Director of Central Intelligence.

\* \* \* \* \*

5 U.S.C. 5314

\* \* \* \* \*

[Deputy Director of Central Intelligence.]

\* \* \* \* \*

Section 602: Makes the following changes in existing law:

\* \* \* \* \*

Omnibus Budget Reconciliation Act of 1982, Public Law  
97-253, §301

SEC. 301(a) ...

(2) For purposes of this subsection, an individual shall be considered to be an early retiree if --

(A) the individual is under the age of 62 years as of the effective date of the cost-of-living increase involved (determined without regard to subsection (b));

(B) the individual did not retire under the mandatory retirement provisions of section 235 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note);

[B] (C) the annuity or retired or retainer pay of the individual is not computed in whole or in part based on any disability of the individual; and

[C] (D) the annuity or retired or retainer pay of the individual is based upon the Government service of the individual....

(c) For purposes of this section, the term "cost-of-living increase under a Government retirement system" means any increase under --....

(3) The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note);....

\* \* \* \* \*

Section 603: Amends Section 5 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f) by adding at the end of subsection (f) the following new subsection:

"(g) Take affirmative measures to preserve, notwithstanding any other provision of law, the confidentiality of the identity of any current or former Agency officer or employee whose intelligence relationship with the Government is classified pursuant to Executive Order in the interests of national security. In accordance with this subsection, the Agency is specifically authorized to direct any of its current or former officers and employees to testify in court proceedings under a pseudonym



which has been officially authorized by the Agency to be used for this purpose and to otherwise use in such proceedings identities or employment backgrounds devised by the Agency to protect the confidentiality of its personnel, if advance notification has been provided to the judge alone, in chambers, and the judge determines that the true name, identity, or employment background of a current or former officer or employee is not material to the particular proceedings. Any finding of materiality made by a state court, regardless of whether it concerns litigation which was brought in a state court or in federal district court, may be appealed by the United States on an interlocutory basis to the appropriate federal court of appeals; and"

Section 604: Amends Section 5 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f) by adding at the end of subsection (g) the following new subsection:

"(h) Accept, notwithstanding section 102(d)(3) of the National Security Act of 1947, a delegation from the Administrator of General Services of authority to protect persons and property with the powers set forth in section 318 of Title 40, United States Code, and of authority to promulgate rules and regulations for the protection of property under Agency charge and control with the powers set forth in section 318a of Title 40, United States Code."

Section 605: Amends the Central Intelligence Agency Act of 1949 by adding after Section 14 (50 U.S.C. 403n) the following new section:

#### Administrative Discretion of the CIA

"§403o. ADMINISTRATIVE DISCRETION OF THE CIA. For the purpose of any other law, actions taken by the Central Intelligence Agency shall be deemed to be committed to the discretion of the Central Intelligence Agency by law."

## TITLE VII

### GENERAL PROVISIONS

Section 701: No substantive change.

Section 702: No substantive change.

Section 703: New provision.

**INTELLIGENCE AUTHORIZATION ACT  
FOR FISCAL YEAR 1985**

**COST ANALYSIS**

## TITLE I

### INTELLIGENCE ACTIVITIES

Section 101: Fiscal Year 1985 authorizations are contained in the Classified Schedule of Authorizations.

Section 102: Cost analysis not applicable.

Section 103: Cost analysis not applicable.

Section 104: Cost contingent upon exercise of permissive authority.

## TITLE II

### INTELLIGENCE COMMUNITY STAFF

Section 201: The fiscal year 1985 authorization is \$21,827,000.00

Section 202: Cost analysis not applicable.

Section 203: Cost analysis not applicable.

## TITLE III

### CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Section 301: The fiscal year 1985 authorization is \$99,300,000.00.

## TITLE IV

### MODIFICATION OF CERTAIN NATURALIZATION REQUIREMENTS

Section 401: Cost analysis not applicable.

TITLE V

AMENDMENTS TO THE CLASSIFIED INFORMATION  
PROCEDURES ACT

Section 501: Cost analysis not applicable.

TITLE VI

ADMINISTRATIVE PROVISIONS RELATED  
TO INTELLIGENCE AGENCIES

Subsection 601: (a) Would result in a cost of \$10,700.00 per annum, representing the current difference between the annual rate of basic pay payable for positions listed at level 1 of the Executive Schedule and those listed at level 11.

Subsection 601: (b) Would result in a cost of \$1,400.00 per annum, representing the current difference between the annual rate of basic pay payable for positions listed at level 11 of the Executive Schedule and those listed at level 111.

Subsection 601: (c) Cost analysis not applicable.

Section 602: Approximately \$53,000.00.

Section 603: Cost analysis not applicable.

Section 604: Cost analysis not applicable.

Section 605: Cost analysis not applicable.

TITLE VII

GENERAL PROVISIONS

Section 701: Cost analysis not applicable.

Section 702: Cost analysis impossible to determine.

Section 703: Technical compliance with section 607 of Public Law 93-344 only; cost analysis not applicable.